



**Republic v Wangoto (Criminal Case E012 of 2023)  
[2024] KEHC 5722 (KLR) (15 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5722 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KILGORIS  
CRIMINAL CASE E012 OF 2023**

**F GIKONYO, J  
MAY 15, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**CHARLES MWANGI WANGOTO ..... ACCUSED**

**RULING**

**Bond/ Bail Application**

1. Mr. Korir counsel for the accused person orally applied for the accused person to be released on reasonable bond terms.
2. Ms.Mwaniki prosecution counsel stated that they wrote to the investigating officer to intimate whether there are compelling reasons. The letter is dated 25/10/2023. It was received by DCI Narok on 31/10/2023. But, there was no response.
3. However, the prosecution counsel stated that, the accused is the husband of deceased and witnesses are children of the deceased.
4. The investigating officer did not file an affidavit on compelling reasons.
5. The probation officer filed a pre-bail report on 27/02/2024.

**Directions of the court**

6. Both parties to file written submissions. None of the parties submissions are on record.



## Analysis And Determination

### Right to bail

7. A person charged with a criminal offence is entitled to be released on bond on reasonable conditions except where there is a compelling reason not to be so released (art. 49(1)(h) of the Constitution of Kenya, 2010). Thus, making all offences bailable. The logic here is premised upon the right to be presumed innocent until the contrary is proven (R. vs. Richard David Alden (2016) eKLR.)

### Compelling reason and burden of proof

8. The prosecution bears the onus of proving compelling reasons under Article 49(1)(h) of the Constitution- these are reasons that justify the limitation of the right to liberty in the context of Article 24 of the Constitution.

### Objective of bail

9. The overarching objective of bail is to ensure the accused gets his liberty but also attends his trial. However, in granting bond the court should ensure that the accused does not prejudice the trial (Muraguri v Republic).

### Grounds for objecting bond

10. The probation officer's report documents the view of the family of the accused, the victim family as well as local administration. The victim family are strongly opposed to his release on bond and their reasons are that; the thoughtless action of the accused person robbed them of their daughter, leaving them with great anguish, and scars to heal; the accused is not from the jurisdiction of the court; and the accused may do just anything not to be prosecuted given that he stabbed himself after the commission of the offence. They also stated that they have been left with the four children of the accused to bring up.
11. The prosecution was categorical that, the children of the accused and the deceased who are young, are witnesses in this case.
12. Under the Constitution and the Victims Protection Act, the rights of victims are protected. Their views and protection are also to be considered in applications for bail.
13. The accused attempted to take his life after the commission of the offence. The family of the victim are apprehensive that he may just do anything not to be prosecuted given his earlier attempts to take his own life. The children of the accused and the deceased are witnesses in this case. They are young with the first born being of the age of nine years and the youngest two years. These are vulnerable persons to the accused.
14. Therefore, there are compelling reasons not to release the accused person on bond. He will remain in custody during the hearing of the case.
15. Orders accordingly.

**DATED, SIGNED, AND DELIVERED AT NAROK THROUGH MICROSOFT TEAMS ONLINE APPLICATION THIS 15<sup>TH</sup> DAY OF MAY, 2024.**

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**F. GIKONYO M.**



## **JUDGE**

In the presence of: -

Ms. Rakama for DPP

Korir for accused

Accused

Otolo C/A

